

WorkSafe ACT

Workers

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Who is a Worker?

From 4.00pm 30 June 2010, a worker is someone who is employed under a contract of service or a contract for labour or substantially for labour only, regardless of whether this is express or implied. A worker is not an individual who is paid to achieve a stated outcome, has to supply all equipment of trade required to carry out the work and would be liable for rectifying any defect. A contract can be made either orally or in writing, and applies to full time, part time and casual workers.

A 'Contract of service' exists where there is an employer/worker relationship. In a contract of service, the worker is directly engaged by the employer in employment. Most employment contracts are made under a 'contract of service'.

A 'Contract for service' circumstance is where an individual performs work for the principal and personally does part or all of the work. A person who is employed under a 'Contract for service' and works on a regular and systematic basis can be deemed to be a worker.

Obligations for Workers

Injured workers must take all reasonable steps to return to the workplace as soon as possible, taking into consideration the nature of the injury, and participate and cooperate in the Personal Injury Plan. (Note: failure to comply may result in weekly compensation payments being stopped).

The Workers Compensation Act 1951 (the Act) ensures that injured workers:

- are able to nominate their treating doctor to assist in coordinating their Personal Injury Plan and Return to Work
- are consulted in the development of a Personal Injury Plan established by the insurer in conjunction with the employer, and with the assistance of an approved rehabilitation provider and the nominated treating doctor

To make a claim, you must:

1. Report the injury or disease as soon as practicable to your employer.
2. Enter the injury into the Register of Injuries. A Register of Injuries must be kept by the employer, which records details of every injury, illness or incident that occurs within the workplace regardless of whether there is a claim for compensation.

3. Provide an approved medical certificate from a doctor stating your employment was a substantial contributing factor to the injury.
4. Request a claim form from your employer. You may obtain a claim form directly from your employer's insurer if not available from your employer.
5. Submit claim form with an approved medical certificate from your nominated treating doctor, stating your employment was a substantial contributing factor to the injury, to the employer or directly to the insurer.
6. Make your claim within 3 years of the injury occurring or of you becoming aware of the injury, and before you voluntarily leave the employer, unless the Court allows.
7. Attend, if requested, a medical examination arranged by your employer's insurance company, the costs of which will be paid by the insurance company. An insurer may cease your payments if you fail to attend a medical examination arranged for you.
8. Participate in and co-operate in the development of a personal injury plan. If you do not comply with reasonable obligations imposed under the personal injury plan, weekly compensation may be stopped under the Act.

What is a Work Related Injury?

A work related injury is a personal injury or disease arising out of or in the course of the worker's employment. You may be able to claim if you:

- have an accident at work
- contract a disease from work
- aggravate a previous injury
- receive an injury on a journey travelling to or from:
 - your employment
 - anywhere it is necessary for you to go, to obtain a medical certificate or to receive medical treatment or rehabilitation.

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